



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 26, 2011

CBCA 2071-TRAV

In the Matter of LEON M. LUNDY, JR.

Leon M. Lundy, Jr., Huntsville, AL, Claimant.

Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Department of the Army, Millington, TN, appearing for Department of the Army.

McCANN, Board Judge.

This claim involves a determination by the Department of the Army to deny claimant the cost of lodging in Dubai, United Arab Emirates, during his return trip to Kabul, Afghanistan.

Background

Claimant, Leon M. Lundy, Jr., a civilian employee of the United States Army Corps of Engineers, was stationed in Kabul, Afghanistan. He received rest and recuperation (R&R) travel orders from April 8, 2010, through April 28, 2010, whereby he traveled to Fort Worth, Texas, and back to Kabul. On his return trip he was scheduled to land in Dubai on April 27, remain overnight, and fly to Kabul on April 28. However, when he arrived in Dubai, he was unable to fly to Kabul as planned, due to increased security threats in the Kabul area. Because of these threats, the AED-N Force protection team that normally picks up employees at the Kabul Airport could not do so. Consequently, the Army changed Mr. Lundy's flight to Kabul from April 28 to April 29 and directed the travel office to make arrangements for him to lodge in a hotel overnight. Mr. Lundy claims the cost of two nights' lodging, on April 27 and 28, plus meals and incidental expenses. Mr. Lundy has not explained why he believes that he is entitled to this reimbursement other than to point to the travel office's change of his flights and its making reservations for him for a hotel for the night of April 28.

Discussion

With regard to lodging, meals, and incidentals on April 27, 2010, Mr. Lundy is clearly not entitled to reimbursement. The Joint Travel Regulations (JTR) govern travel for civilian employees of the military. Chapter 7, Part O, governs R&R leave travel, i.e., travel associated with a civilian employee of the military while taking R&R leave. “[A] DoD civilian employee in Iraq or Afghanistan is authorized transportation expenses (but no per diem) associated with R&R [travel]” JTR C7751-B. “Per Diem is not authorized for R&R travel.” JTR C7751-G. On April 27 Mr. Lundy was still on R&R travel and the fact that he could not leave Dubai on April 28, as planned, is not relevant. Clearly, had Mr. Lundy left for Kabul on April 28 he would not have been entitled to reimbursement for lodging on April 27 or for miscellaneous and incidental expenses.

The same does not apply to April 28, 2010. Although it might appear that Mr. Lundy was still on R&R travel on April 28, in reality, he was not. The Army Corps of Engineers made the decision that Mr. Lundy would remain in Dubai for one additional day. This was not a decision made by Mr. Lundy. The decision was made by the Army because of the increased security threats in the area. It was not caused by the normal risks of flying that often accompany commercial travel, such as weather-related delays or missed connections. Such risks often cause flight delay and expenses to be incurred for which employees cannot receive reimbursement under the regulations. It was the security threat and the decision by the Army that prompted the additional one day stay in Dubai. In effect, Mr. Lundy came off R&R leave and back on duty when the Army changed his orders and added another day to his travel. This action put Mr. Lundy in the status of temporary duty travel (TDY) for the period April 28 through 29, which does entitle him to per diem. JTR ch. 4. Certainly, had the Army directed Mr. Lundy to stay in Dubai for a week or a month and then continue on to Kabul, Mr. Lundy would not be responsible for the additional costs he incurred. There is no difference just because Mr. Lundy’s stay was for only one additional day.

Decision

The claim is granted in part and denied in part.

R. ANTHONY McCANN
Board Judge